

REMARKS

Applicants thank the Examiner for the Office Action of April 23, 2008. This Amendment is in full response thereto. Thus, Applicants respectfully request continued examination and allowance of the application.

Claim Rejections Under 35 U.S.C. § 112:

Claims 21-22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the dependency of claim 21 from claim 16 to claim 17 thereby providing antecedent basis for “slopes”. Applicant inadvertently left off one element from claim 22 and the present amendment adds that element thereby providing a full sentence. Thus, the rejection should be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 12, 13, 14 are rejected under 35 U.S.C. 102(a) as being anticipated by Schmidtke (US05172555). Applicant traverses because Schmidtke fails to disclose, teach or suggest all of the claim limitations. Claims 12-14 require, *inter alia*: injection of a second gas into two-phase “gas + solid” carbon dioxide to provide a mixture and injection of the mixture into a pressurized gas stream. On the other hand, to the extent that Schmidtke corresponds to the claim language, it discloses aspiration of a secondary atmosphere into two-phase “gas + solid” carbon dioxide and injection of the combined secondary atmosphere/two-phase “gas + solid” carbon dioxide back into the secondary atmosphere in a freezing room. The secondary atmosphere in the freezing room outside of cold gas supply pipe 10 is not a gas stream. Additionally, Schmidtke is silent as to whether the secondary atmosphere in the freezing room is pressurized. Finally, the Examiner’s apparent interpretation of the claims to fit Schmidtke is reasonably overbroad because the secondary atmosphere is counted twice as both the claimed “second gas” and claimed “pressurized gas stream”. While

the second gas as disclosed by Applicant may or may not be carbon dioxide and thus may or may not be the same molecular substance as the two-phase "gas + solid", the second gas of the present invention **is** different from the pressurized gas stream of the present invention. Thus, the rejection should be withdrawn.

Objection to the Claims

The Examiner objected to claims 16-20 as depending from a rejected claim. With respect to claim 15, Applicants have rewritten it in independent form. Applicant assumes that the Examiner intended to indicate that claims 16-20 were simply allowed, but should the Examiner disagree, the Examiner is asked to please clarify their status. Thus, the objection should be withdrawn.

Allowable Subject Matter

The Examiner indicated the allowability of the subject matter for claims 15-20. Additionally, because claims 21-22 depend from a claim indicated as containing allowable subject matter, they too should be allowable now that the 112, second paragraph issues have been addressed.

CONCLUSION

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited. Should the examiner believe a telephone call would expedite the prosecution of the application, he/she is invited to call the undersigned attorney at the number listed below.

A petition for a three month extension of time has been contemporaneously submitted with this Amendment along with the associated fee. Otherwise, it is not believed that any fee is due at this time. If that belief is incorrect, please debit deposit account number 01-1375. Also, the Commissioner is authorized to credit any overpayment to deposit account number 01-1375.

Application No.: 10/521,011
Amendment dated October 23, 2008
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Attorney Docket No. Serie 5957

Respectfully submitted,

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